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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
)
Application of Verizon New York Inc.,)
Verizon Long Distance, Verizon Enterprise)
Solutions, Verizon Global Networks Inc., and)
Verizon Select Services Inc., for)
Authorization to Provide In-Region,)
InterLATA Services in Connecticut)
)

RECEIVED
CC Docket No. 01-100

MEMORANDUM OPINION AND ORDER

Adopted: July 20, 2001

Released: July 20, 2001

By the Commission: Commissioner Abernathy not participating; Commissioner Copps issuing a statement.

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I. INTRODUCTION

1. On April 23, 2001, Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. (Verizon) filed this application pursuant to section 271 of the Communications Act of 1934, as amended,¹ for authority to provide in-region, interLATA service originating in the state of Connecticut. We grant the application in this Order based on our conclusion that Verizon has taken the statutorily required steps to open its local exchange markets in Connecticut to competition.

2. This application differs from others considered by the Commission because Verizon serves only two small communities in Connecticut with a total of approximately 60,000 lines, representing approximately two percent of the access lines in the state.² Verizon serves Byram, Connecticut out of its Port Chester, New York central office and serves Greenwich, Connecticut through its single central office located in Connecticut.³ Verizon states that the systems and processes that it uses to serve these two communities “are the New York systems and processes.”⁴ Two competitors⁵ in Verizon’s Connecticut service area have approved interconnection agreements and are providing telephone exchange service over their own

¹ We refer to the Communications Act of 1934, as amended by the Telecommunications Act of 1996, as the Communications Act or the Act.

² Verizon Application at 1 and 4.

³ *Id.*

⁴ *Id.*

⁵ Network Plus Corp. (Network Plus) and Cablevision Lightpath – CT, Inc. (Lightpath).

facilities.⁶ There are also four competitive local exchange carriers (competitive LECs) providing xDSL services using unbundled loops in Verizon's service area in Connecticut.⁷

3. In granting this application, we wish to recognize the hard work of the Connecticut Department of Public Utility Control (Connecticut Department) in laying the foundation for approval of this application. We particularly commend the Connecticut Department for devoting substantial resources to consideration of Verizon's section 271 application even though Verizon serves only a very small portion of the lines in the state. The Connecticut Department has conducted proceedings concerning Verizon's section 271 compliance open to participation by all interested parties. In addition, the Connecticut Department has adopted a broad range of performance measures and standards as well as a Performance Assurance Plan designed to create a financial incentive for post-entry compliance with section 271. As the Commission has recognized previously, state proceedings such as these serve a vitally important role in the section 271 process.

II. BACKGROUND

4. In the 1996 amendments to the Communications Act, Congress required that the Bell Operating Companies (BOCs) demonstrate compliance with certain market-opening requirements contained in section 271 of the Act before providing in-region, interLATA long distance service. Congress provided for Commission review of BOC applications to provide such service in consultation with the affected state and the Attorney General.⁸

⁶ Verizon Application at 4-5; Verizon Application App. A, Vol. 3, Declaration of William E. Taylor (Verizon Taylor Decl.), Attach A at paras. 1, 6-7 (Network Plus serves both residential and business customers while Lightpath serves only business customers, although it has stated that it plans to serve residential customers in the future).

⁷ These include Covad Communications Company (Covad), DSL.net, Inc. (DSLnet); Network Access Solutions Corporation (Network Access Solutions) and Rhythms Netconnections, Inc. (Rhythms). Verizon Application at 8; Verizon Taylor Decl. Attach. A at para. 11 and Exhibit 2.

⁸ The Commission has summarized the relevant statutory framework in prior orders. See, e.g., *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, Memorandum Opinion and Order, FCC 01-29, 16 FCC Rcd 6237, 6241-42, paras. 7-10 (2001) (*SWBT Kansas/Oklahoma Order*); *Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas*, Memorandum Opinion and Order, 15 FCC Rcd 18354, 18359-61, paras. 8-11 (2000) (*SWBT Texas Order*); *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, Memorandum Opinion and Order, 15 FCC Rcd 3953, 3961-63, paras. 17-20 (1999) (*Bell Atlantic New York Order*).

5. On September 5, 2000, the Connecticut Department requested comments from interested parties concerning Verizon's compliance with the section 271 checklist requirements.⁹ Shortly thereafter, the Department approved Verizon's Statement of Generally Accepted Terms (SGAT) subject to further investigation.¹⁰ On April 11, 2000, the Connecticut Department ruled "that Verizon has demonstrated full compliance with the [14 point] competitive checklist."¹¹ adding that "[Verizon] may proceed under Track A to gain approval to provide in-region interLATA services in Connecticut."¹² Verizon filed its application for section 271 authority in Connecticut with this Commission on April 23, 2001.¹³ Comments concerning the application were filed on May 14, 2001, and replies were filed on June 7, 2001.¹⁴ Supplemental comments were filed on July 13, 2001.¹⁵

6. The Connecticut Department fully supports Verizon's application to provide in-region, interLATA long distance service originating in Connecticut. In concluding that Verizon is in compliance with the section 271 checklist requirements, the Connecticut Department states that it has relied to a significant extent on New York Public Service Commission (New York Commission) proceedings concerning section 271 since "Verizon conducts its Connecticut

⁹ *Application of New York Telephone Company Pursuant to Section 271 of the Telecommunications Reform Act of 1996*, Notice of Request for Written Comments, Docket No. 97-01-23 (Conn. Dept. Sept. 5, 2000). Verizon New York Inc., AT&T Communications of New England, MCI WorldCom, Inc., Lightpath and Sprint Communications Company LP filed written comments in that proceeding. *Application of New York Telephone Company Pursuant to Section 271 of the Telecommunications Reform Act of 1996*, Decision at 2, Docket No. 97-01-23 (Conn. Dept. April 11, 2001).

¹⁰ *Application of New York Telephone Company Pursuant to Section 271 of the Telecommunications Reform Act of 1996*, Decision, Docket No. 97-01-23 (Conn. Dept. Sept. 6, 2000).

¹¹ *Application of New York Telephone Company Pursuant to Section 271 of the Telecommunications Reform Act of 1996*, Decision at 1, Docket No. 97-01-23 (Conn. Dept. rel. April 11, 2001). At the same time, the Connecticut Department ordered Verizon to make a number of changes to its SGAT, directed Verizon to submit certain performance data, and ruled that the Connecticut Performance Assurance Plan would be identical to that in New York except for the monetary penalties, which would be reduced from the levels in New York to reflect the relatively small number of lines Verizon serves in Connecticut. *Id.* at 15.

¹² *Id.* Verizon had originally sought to proceed in Connecticut under Track B of section 271, 47 U.S.C. § 271(c)(1)(B), which permits a BOC to seek section 271 approval for a state under certain circumstances even if no competitors have requested access and interconnection. *Id.* at 1. The Connecticut Department stated that Track B was foreclosed to Verizon in light of the Department's March 21, 2001 approval of an interconnection agreement between Verizon and Network Plus. *Id.*

¹³ On April 23, 2001, the Commission released a Public Notice establishing a schedule for filings in this proceeding, and addressing certain other procedural matters. *See Comments Requested on The Application By Verizon New York, Inc. for Authorization Under Section 271 of the Communications Act To Provide In-Region, Interlata Service in The State of Connecticut*, Public Notice, DA 01-1063 (CCB rel. Apr. 23, 2001).

¹⁴ A complete list of commenters in this proceeding is contained in Appendix A.

¹⁵ *Comments Requested in Connection with Verizon's Section 271 Application for Connecticut*, Public Notice, DA 01-1609 (CCB rel. Jul. 6, 2001).

operations out of New York using the same systems and processes and providing wholesale products and services at New York rates.”¹⁶ The Connecticut Department also notes that it has required Verizon to implement in Connecticut future changes related to its unbundled network elements (UNEs) rates and collocation tariffs adopted by the New York Commission.¹⁷

7. The Department of Justice does not oppose Verizon’s section 271 application for Connecticut in light of the “unique circumstances” involved.¹⁸ In this regard, the Department of Justice cites the extremely limited extent of Verizon’s Connecticut service area and the fact that Verizon serves competitive LECs in Connecticut through the same New York-based systems and operations reviewed by the Commission in Verizon’s successful New York section 271 application. The Department of Justice also relies on the fact that Verizon and the Connecticut Department “have agreed to implement in Connecticut the outcomes of many continuing and future competition proceedings pertaining to Verizon’s operations in New York.”¹⁹

III. CHECKLIST COMPLIANCE

A. Primary Issues In Dispute

8. In a number of prior orders, the Commission organized the discussion of the section 271 requirements sequentially, following the order of the statutory provisions. In so doing, the Commission discussed in considerable detail the analytical framework and particular legal showing required to establish checklist compliance.²⁰ In this Order, we rely upon the legal and analytical precedent established in those prior orders. Additionally, we include a comprehensive appendix containing performance data.²¹

9. As in our two most recent orders on section 271 applications, we focus in this Order on the issues in controversy in the record.²² Accordingly, we begin by addressing checklist

¹⁶ Connecticut Department Comments at 12. The Connecticut Department also states that it relied on a number of its own decisions and Federal Communications Commission orders. *Id.* at 5.

¹⁷ *Id.* at 12-13.

¹⁸ United States Department of Justice Evaluation at 1.

¹⁹ *Id.*

²⁰ See *Bell Atlantic New York Order*, 15 FCC Rcd at 3961-63, 3966-69, 3971-76, paras. 17-20, 29-37, and 43-60; *SWBT Texas Order*, 15 FCC Rcd at 18359-61, 18365-72, 18373-78, paras. 8-11, 21-40, and 43-58; see also Appendix D.

²¹ See generally Appendices B and C.

²² See *SWBT Kansas/Oklahoma Order* 16 FCC Rcd at 6255-56, para. 39; *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., for Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket 01-9, Memorandum Opinion and Order, 16 FCC Rcd 8988, 8996, at para. 15 (2001) (*Verizon Massachusetts Order*).

item numbers 4, 5 and 14, which encompass access to unbundled local loops, access to unbundled local transport, and resale of Verizon's service offerings, respectively. Next, we address checklist item numbers 1 and 2, which cover interconnection and collocation issues, and access to unbundled network elements, respectively. The remaining checklist requirements are then discussed briefly, since they received little or no attention from commenting parties, and our own review of the record leads us to conclude that Verizon has satisfied these requirements. We then consider whether Verizon has satisfied the requirements for Track A in Connecticut. Finally, we discuss issues concerning compliance with section 272 and the public interest requirement.

1. Checklist Item 4 – Unbundled Local Loops

10. Section 271(c)(2)(B)(iv) of the Act, item 4 of the competitive checklist, requires that a BOC provide “[l]ocal loop transmission from the central office to the customer’s premises, unbundled from local switching or other services.”²³ Based on the record before us, we conclude that Verizon has adequately demonstrated that it provides unbundled local loops as required by section 271 and our rules. We focus our analysis in this section on the four loop types which present issues in controversy under this checklist item, beginning with the ordering, provisioning, and maintenance and repair of stand-alone xDSL-capable loops and digital loops. We also address line sharing and high capacity loops. For all other types of unbundled loops and categories of performance not specifically mentioned in the discussion below, we conclude, based on our review of the record, that Verizon has met the requirements of section 271.²⁴

11. Upon review, we find that Verizon provides nondiscriminatory access to stand-alone xDSL-capable loops and digital loops. We also find that Verizon has demonstrated that it has a line-sharing provisioning process that affords competitors nondiscriminatory access to these facilities, and that its performance for high capacity loops does not result in a finding of noncompliance. As described below, we also find that Verizon provides access to loop make-up information in compliance with the *UNE Remand Order*.²⁵

²³ 47 U.S.C. § 271(c)(2)(B)(iv). The Commission has defined the loop as a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the demarcation point at the customer premises. See *Local Competition First Report and Order*, 11 FCC Rcd at 15691, para. 380; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order, 15 FCC Rcd 3696, at 3772-73, paras. 166-167, n.301 (*UNE Remand Order*) (retaining definition of the local loop from the *Local Competition First Report and Order*, but replacing the phrase “network interconnection device” with “demarcation point,” and making explicit that dark fiber and loop conditioning are among the features, functions and capabilities of the loop). See Appendix D at D-25-27, paras. 49-53, regarding requirements under checklist item 4.

²⁴ See generally Appendix B (New York performance data).

²⁵ See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order, 15 FCC Rcd 3696, 3885-87, paras. 427-431 (*UNE Remand Order*).

12. In analyzing Verizon's compliance with this checklist item, we note first that order volumes for unbundled loops in Connecticut are extremely low. As of April, competitors' orders were comprised mainly of three categories of loops in Connecticut: hot cut loops, xDSL stand-alone loops, and digital loops.²⁶ In addition, there is only one line-sharing arrangement in place in Verizon's Connecticut territory at present, and competitive LECs have ordered no high capacity loops at all. Given these low volumes, Verizon relies mainly on New York performance data to support its application in Connecticut, and our analysis is based primarily on that data. In the course of our review, we look for patterns of systemic performance disparities that have resulted in competitive harm or otherwise denied new entrants a meaningful opportunity to compete.²⁷ Isolated cases of performance disparity, especially when the margin of disparity or the number of instances measured is small, will generally not result in a finding of checklist noncompliance.

13. When New York data for hot cuts, stand-alone xDSL loops, and digital loops are considered, we conclude that Verizon shows that it performs at an acceptable level, generally meeting the parity standards in the four-month period leading up to its application. We find that Verizon's overall performance meets the checklist requirements. We reach this conclusion and note that the Connecticut Department reached the same conclusion,²⁸ even though some performance measurements for particular categories of loops indicate isolated and marginal problems. As described below, we believe that the marginal disparities in some measurements are not competitively significant and do not indicate systemic discrimination.

a. xDSL Stand-Alone Loops

14. We find that Verizon demonstrates that it is providing xDSL-capable loops in accordance with the requirements of checklist item 4. Verizon makes available unbundled xDSL stand-alone loops (including all technically feasible features, functions and capabilities) in Connecticut through interconnection agreements and pursuant to tariffs approved by the Connecticut Department.²⁹ In analyzing Verizon's showing, we refer for comparison to the performance measures relied on in prior section 271 orders.³⁰

²⁶ Competitive LECs had a total of 339 hot cuts, 334 stand-alone xDSL loops, and 22 digital loops in place in Connecticut as of April. Competitors ordered a total of 29 hot cut loops, 78 stand-alone xDSL loops, one line-shared DSL loop, and three digital loops in Connecticut between January and April 2001.

²⁷ See *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 01-734, (rel. March 23, 2001) at 6 (encouraging BOC-applicants to explain why factual anomalies may have no meaningful adverse impact on a competing carrier's ability to obtain and serve customers).

²⁸ See Connecticut Department Comments at 7.

²⁹ See Verizon Lacouture/Ruesterholz Decl. at para. 122 and Attach. A.

³⁰ See *Verizon Massachusetts Order*, 16 FCC Rcd at 9056, 9059, paras. 123 and 130; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6326-27, paras. 181-182.

15. We base our finding of compliance on our review of the New York performance data for Verizon's stand-alone xDSL loop order processing timeliness, the timeliness of Verizon's stand-alone xDSL loop installation and percentage of Verizon-caused missed installation appointments, the quality of the stand-alone xDSL loops Verizon installs, and the timeliness and quality of the maintenance and repair functions Verizon provides to competing carriers that have purchased stand-alone xDSL loops. In reaching this conclusion, however, we do not rely on data reflecting Verizon's provision of xDSL loops to its separate affiliate because Verizon demonstrates checklist compliance with an evidentiary showing of performance to its wholesale xDSL customers.³¹ The data reflect that Verizon provides responses to competing carrier requests for loop information in substantially the same time and manner as for itself, and that it consistently provides timely confirmation notices to competing LECs for unbundled xDSL loop orders.³²

16. We also find that Verizon demonstrates that it provisions stand-alone xDSL loops in substantially the same time and manner that it installs such loops for its own retail operations. The New York data show that Verizon has generally met the benchmark for missed dispatch installation appointments for each month from February through April, and that its average performance during the period from January through April on the missed appointment, non-dispatch measure is close to parity.³³ Although Verizon's provisioning quality for stand-alone xDSL loops is slightly out of parity, the performance differences are relatively small.³⁴ The data for provisioning quality also shows improvement each month from January through April, and exceeds parity in April.³⁵ In addition, Connecticut performance data shows that Verizon's performance exceeds parity for this measure in March and April.³⁶

³¹ Verizon's separate affiliate has not been purchasing the same inputs to provide advanced services as unaffiliated competing carriers. Specifically, Verizon's separate affiliate purchases line sharing to provide ADSL service, while competing carriers in Connecticut and New York continue to purchase stand-alone, xDSL-capable loops and have only recently begun purchasing line sharing. As a result, a comparison with Verizon's advanced services separate affiliate is not useful in determining whether Verizon is performing in a nondiscriminatory manner.

³² See PO 1-06 (Facility Availability, Loop Qualification); OR 1-04 (Order Confirmation timeliness). Verizon has exceeded the benchmark for each month reported on loop qualification and order confirmation timeliness. See Appendix B at B-4, B-11.

³³ See PR 4-04 (Percent Missed Dispatch Appointments), Appendix B at B-13. Verizon's average performance for competitors on PR 4-05 (Percent Missed Appointments, Non-Dispatch) from January through April is 2.1%, and 0.6% for retail.

³⁴ The January-April average for PR 6-01 (Percent Installation Troubles within 30 days) is 6.0% for competitive LECs, as compared to 4.4% for Verizon retail customers. See Appendix B at B-13.

³⁵ See PR 6-01 (Percent Installation Troubles Within 30 Days), Appendix B at B-13.

³⁶ See PR 6-01 (Percent Installation Troubles Within 30 Days), Appendix C at C-13.

17. New York maintenance and repair performance data for xDSL loops also show comparable performance for competitors and Verizon retail customers. Both the mean time to repair and the repeat trouble report rate are generally lower for competitive LECs than for Verizon's retail customers, and Verizon missed fewer repair appointments for competitors than for its own retail customers for every month reported.³⁷ Verizon also emphasizes that an average of 98 percent of xDSL loops experience no trouble in a given month in Connecticut.³⁸

18. We reject Covad's contention that Verizon's New York performance data demonstrate discriminatory performance for competitive LECs. Covad points to the measures for on-time xDSL loop provisioning, claiming that Verizon takes about ten days to complete loop delivery to competitive LECs,³⁹ and that the New York data also show that competitive LECs suffer twice as many loop outages as do Verizon's retail customers.⁴⁰ As noted above, while there are some minor disparities in Verizon's provisioning performance, the data reflect that Verizon provisions stand-alone xDSL loops in substantially the same time and manner that it installs such loops for its own retail operations.⁴¹ Furthermore, Verizon's provisioning for competitive LECs has improved over recent months, and is in any event comparable to Verizon's retail performance.⁴² Thus, the record shows that whatever performance disparities may have existed in the past have been narrowed to a small margin.

19. Although Covad urges us to rely on the "held orders" measure in analyzing Verizon's xDSL loop performance,⁴³ we need not do so in this case. Verizon has demonstrated compliance with this aspect of our loops analysis on the basis of the measures the Commission has relied upon in previous section 271 orders. We decline to rely upon the held orders measure because the record presents conflicting information on the reliability of this measure, and we do

³⁷ See, e.g., MR 3-01/02 (Missed Appointment Rate) and MR 4-02/03 (Mean Time to Repair), Appendix B at B-15.

³⁸ Verizon Application at 35; Verizon Lacouture/Ruesterholz Decl. at para. 186.

³⁹ Covad Comments at 9, citing PR 2-01/02 (Average Completed Interval). Beginning in January 2001, the Carrier-to-Carrier Guidelines eliminated the parity with retail standard for this measure for xDSL stand-alone loops, and did not establish a new standard. Instead, the data refers to the published interval for this measure, which is six business days for orders of 5 lines or less.

⁴⁰ *Id.*, citing PR 6-01 (Percent Installation Troubles Within 30 Days).

⁴¹ See ns.33-34, *supra*.

⁴² See ns.34-35, *supra*.

⁴³ Covad argues that the measures rating Verizon's on-time performance are misleading, because loop orders that are late and have not been completed are not reflected in Verizon's performance metrics. Covad contends that the New York Commission adopted a "held orders" metric – which shows the number of orders submitted but not fulfilled – to address this flaw in the performance measures. Covad points to the February data, which shows only 0.15 percent of Verizon retail orders still open after 30 days, while 4.07% of competitors' orders remain open after 30 days. Covad Comments at 10.

not have enough data or experience with it for determining a BOC's compliance with section 271.⁴⁴ Moreover, Covad has offered no persuasive reason to depart from Commission practice of placing primary reliance upon the percent missed appointment or the average completion interval measures. Accordingly, we view the held orders measures as additional diagnostic data to evaluate Verizon's contention that it provides stand-alone xDSL loops in a timely manner.⁴⁵

20. Finally, although Covad questions the number of observations cited, we are satisfied that Verizon has accurately presented the data for trouble reports within thirty days for xDSL loops.⁴⁶ Verizon states that there is a large difference in the number of observations for competitors and retail customers on this measure because the retail analogue during the relevant time period was all POTS lines with order activity. Verizon notes that new business rules recently agreed to by the New York Carrier-to-Carrier Working Group will adjust the retail analogue for this measure to reflect only POTS lines requiring a dispatch.⁴⁷ We find that this is a reasonable explanation of the large number of Verizon retail observations for this measure.

b. Digital Loops

21. As of April, Verizon had provisioned only 22 digital loops to competitive LECs in Connecticut, with only two new digital loop orders placed between January and April 2001. We therefore look at New York data, which show that Verizon's performance on digital loops meets the requirements of checklist item 4. As with stand-alone xDSL loops, the data demonstrate that Verizon's performance for digital loop ordering is at parity. Also, Verizon's provisioning

⁴⁴ Verizon notes that the Commission has never relied on the "held orders" data in analyzing compliance with checklist item 4, and contends that this measure is significantly flawed because it includes orders that could not be provisioned due to a lack of facilities. Verizon claims that 73.5 percent of the open orders reported in New York in March and April could not be provisioned due to a lack of facilities. Verizon Reply at 12-13, citing to the *Verizon Massachusetts Order*, 16 FCC Rcd at 9062, para. 136 ("we continue to rely primarily upon ... missed installation appointments and average completion intervals").

⁴⁵ We note that Verizon's performance on this measure improved significantly in March and April over the February data cited by Covad, even as the volume of competitors' orders increased. The data also indicate that, for January through April, an average of fewer than three percent of competitors' orders were outstanding after 30 days. See PR 8-01 (Provisioning, DSL Loops - Open Orders on Hold over 30 days), Appendix B at B-13.

⁴⁶ Covad states that the February data for PR 6-01 shows 1,379 observations for Verizon retail in the two Connecticut central offices, but only 13 observations for competitive LECs in those offices. Covad Comments at 8.

⁴⁷ Verizon Reply at 14, n.11 (citing to Verizon Lacouture/Ruesterholz Reply Decl. at para. 59). Covad also claims that Verizon does not report its retail performance for comparison to its wholesale performance, claiming that Verizon only reports its own performance for comparison on the measure for PR 6-01 (Percent Trouble Reports Within 30 Days) in February. See Covad Comments at 8. However, Verizon responds that its application includes retail performance for every performance measure for which a retail analogue exists in the Carrier-to-Carrier Guidelines. See Verizon Reply at 11, n.7 (citing to Verizon Canny/Abesamis Decl., Attach. C). We find no reason to question this statement.

performance exceeds parity on the Missed Appointments measure.⁴⁸ However, the measure for Installation Troubles is out of parity for all months reported by Verizon. The data shows a slight improvement in April over the figures for February and March.⁴⁹ Similarly, the Repeat Trouble Reports measure shows Verizon's performance to be out of parity for each month reported, though there is a slight improvement from March to April.⁵⁰ Verizon's performance for other maintenance and repair functions for digital loops is comparable for Verizon retail customers and competitive LECs.⁵¹

22. Based on the totality of the circumstances, we find that these performance disparities are not competitively significant. Commenters in this proceeding do not specifically criticize Verizon's performance with regard to digital loops, and the volume of loops provisioned in Connecticut to date is very low.⁵² Given Verizon's generally acceptable performance for other categories of loops, we do not believe that the disparities in performance for the few maintenance and repair measures for digital loops discussed above merit a finding of checklist noncompliance.

c. Other Unbundled Loops

23. *Line Sharing.* We find that Verizon demonstrates that it provides nondiscriminatory access to the high-frequency portion of the loop. Verizon offers line sharing in Connecticut under its interconnection agreements and the terms of its tariff, in accordance with the requirements of the *Line Sharing Order* and *Line Sharing Reconsideration Order*.⁵³

⁴⁸ See PR 4-04 (Provisioning, Percent Missed Appointments, Dispatch), Appendix B at B-13. Verizon's performance for timeliness of order confirmation notices also exceeds the benchmark each month from February through April. See OR 1-04 (Ordering, UNE POTS/Special Services, 2-wire Digital Services, Order Confirmation Timeliness), Appendix B at B-10, B-11.

⁴⁹ See PR 6-01 (Percent Installation Troubles Within 30 days), Appendix B at B-12, B-14.. The January-April average for this measure is 11.3% for competitive LECs and 4.2% for Verizon retail.

⁵⁰ The January-April average for this measure is 37.6% for competitive LECs and 20.4% for Verizon retail.

⁵¹ For example, from January through April, the Mean Time to Repair for digital loops averaged 27.1 hours for Verizon retail customers' troubles, compared to 27.5 hours for competitive LECs during the same period. See MR 4-01 (Maintenance, UNE POTS/Special Services, 2-wire Digital Services, Mean Time to Repair, Total), Appendix B at B-15, B-16. Also, between January and April, Network Trouble reports for competitive LECs were reported slightly more often than for Verizon's retail customers, but still less than three percent of the time. See MR 2-02/03 (Maintenance, UNE POTS/Special Services, 2-wire Digital Services, percent Network Trouble Report Rate), Appendix B at B-14, B-15. The January through April average for MR 2-02/03 was 2.52% for competitive LECs and 0.70% for Verizon retail.

⁵² As noted above, competitive LECs had a total of 22 digital loops in place in Connecticut as of April, and ordered a total of three digital loops in Connecticut between January and April 2001. See n.26, *supra*.

⁵³ See Verizon Lacouture/Ruesterholz Decl. at para. 191; *Deployment of Wireline Services Offering Advanced Telecommunications Capabilities and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order, CC Docket No. 98-147, Fourth Report and Order, CC Docket No. 96-98, 14 FCC Rcd 20912 (1999) (*Line Sharing Order*) (*pet. for rehearing pending sub nom. USTA v. FCC*, DC Cir. No. 00-102 (filed Jan. 18, 2000)); *Deployment of Wireline Services Offering Advanced* (continued....)

There is currently only one line-sharing arrangement in Verizon's Connecticut territory, and the Connecticut performance data shows no competitive LEC activity for line shared DSL services in March and April.⁵⁴ Although there has been very little ordering activity in Connecticut for line sharing for the months reported, Verizon's New York performance data demonstrate that it is provisioning line shared DSL loops to competitors at parity with its own retail provisioning, and that its maintenance and repair performance is also acceptable.⁵⁵

24. Two commenters raised issues concerning Verizon's compliance with its line sharing obligations, neither of which demonstrate that Verizon presently fails to comply with the requirements of checklist item 4. Covad contends that Verizon did not make line-sharing arrangements available in Connecticut within the timeframe established by the Commission;⁵⁶ however, it also acknowledges that line sharing is currently available, and that Covad has a line-sharing arrangement in place in Connecticut.⁵⁷ In response, Verizon states that it did not receive Covad's completed application for line sharing until January 10, 2001, and that Verizon completed the necessary work for the arrangement on May 15, 2001, which was within the requisite 76 business day interval.⁵⁸

25. In addition, Sprint argues that the Connecticut Department did not investigate whether Verizon's line sharing offerings comply with the obligations established in the *Line Sharing Reconsideration Order*, and contends that the Department should re-open the evidentiary record on Verizon's line sharing provisioning, as it has done for the Southern New England Telephone Company (SNET).⁵⁹ However, our role in this proceeding is to determine whether the

(Continued from previous page)

Telecommunications Capabilities and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Order on Reconsideration, CC Docket No. 98-147; Fourth Report and Order on Reconsideration, CC Docket No. 96-98; Third Further Notice of Proposed Rulemaking, CC Docket No. 98-147; Sixth Further Notice of Proposed Rulemaking, CC Docket No. 96-98, 16 FCC Rcd 2101 (2001) (*Line Sharing Reconsideration Order*).

⁵⁴ See n.26, *supra*; Appendix C at C-13.

⁵⁵ For example, for PR 4-04 (Provisioning, UNE POTS/Special Services, 2-wire xDSL Line Sharing, Percent Missed Appointments - Dispatch), Verizon's New York performance is at parity for dispatch from January through April, and better than parity for non-dispatch (PR 4-05) in March. The January-April average for non-dispatch missed appointments is 1.6% for competitive LECs and 0.6% for Verizon retail. See Appendix B at B-13. See also Appendix B at B-15-16 (maintenance performance).

⁵⁶ The implementation deadline for line-sharing was June 6, 2000. See *Line Sharing Order*, 14 FCC Rcd at 20982, para. 160.

⁵⁷ Covad Comments at 3-4.

⁵⁸ Verizon Lacouture/Ruesterholz Reply Decl. at para. 83. Verizon also claims that a Covad technician tested the arrangement on May 15 and certified that all work was complete and accurate. *Id.*

⁵⁹ Sprint Comments, Attach. at 3-4 and n.11. SNET is the incumbent LEC in Connecticut serving the area outside of Verizon's territory. The Connecticut Department issued a notice re-opening the evidentiary record and seeking comments on the impact of the *Line Sharing Reconsideration Order* on SNET's provisioning of line sharing in Connecticut on March 28, 2001.

factual record before us supports the conclusion that the particular requirements of section 271 have been met.⁶⁰ Neither Sprint nor any other commenter has offered specific evidence that Verizon is not complying with its line sharing obligations. To the contrary, the Connecticut Department has found Verizon to be in full compliance with the provisions of the *Line Sharing Order*, and notes that Verizon has agreed to apply decisions made in the New York line sharing collaborative in Connecticut, unless the Connecticut Department establishes alternative requirements.⁶¹

26. *High Capacity Loops.* Given the totality of the evidence, we find that Verizon's performance for high capacity loops complies with checklist item 4. Verizon's New York performance data for its maintenance and repair functions for high capacity loops are comparable for Verizon retail customers and competitors.⁶² We recognize that Verizon's performance on other measures with respect to provisioning high capacity loops has been poor in New York.⁶³ However, high capacity loops represent only approximately 0.05 percent of all unbundled loops provisioned to competitors in New York, no high capacity loops have been requested at all by competitors in Verizon's Connecticut territory,⁶⁴ and none of the commenting parties raised concerns about high capacity loops.⁶⁵ As discussed above, in terms of total loop performance, Verizon performs in a nondiscriminatory manner. Given the complete lack of orders for high capacity loops in Connecticut and the extremely small percentage of such orders in New York, we cannot find that Verizon's performance for high capacity loops should result in a finding of noncompliance for checklist item 4.⁶⁶

⁶⁰ See *Bell Atlantic New York Order*, 15 FCC Rcd at 3962-63, para. 20.

⁶¹ Connecticut Department Comments at 6.

⁶² For example, for the period January through April, the Mean Time to Repair measure shows that Verizon retail customers' troubles are resolved in 6.1 hours on average, compared to 6.7 hours for competitive LECs during the same period. See MR 4-01 (Maintenance, UNE POTS, Special Services, Mean Time to Repair, Total), Appendix B at B-14, B-16. Fewer than three percent of competitive LECs experienced network troubles with high capacity loops in each month reported. See MR 2-02/03 (Network Trouble Report Rate), Appendix B at B-14; Lacouture/Ruesterholz Reply Decl. at para. 33. In addition, competitive LECs experience fewer repeat troubles than Verizon's retail customers. See MR 5-01 (Maintenance, UNE POTS, Special Services, Percent Repeat Reports within 30 days), Appendix B at B-14, B-16.

⁶³ See, e.g., OR 1-10 (Special Services – Ordering, percent On Time FOC); PR 6-01 (Special Services – Provisioning, Percent Installation Troubles reported within 30 Days), in Appendix B at B-11, B-14.

⁶⁴ Verizon Application at 26-27; Verizon Lacouture/Ruesterholz Decl. at paras. 117-121.

⁶⁵ While both Covad and Sprint challenged Verizon's loop performance in their comments, neither of these commenters specifically addressed high capacity loops.

⁶⁶ Although we recognize specific performance problems in New York for high capacity loops, we do not find that these disparities in and of themselves are enough to render a finding of checklist noncompliance because of the small numbers of DS-1 and DS-3 loops requested by competing carriers. We stress, however, that we will be actively monitoring Verizon's performance in this area, and we will take swift and appropriate enforcement action in the event that Verizon's provisioning performance for high capacity loops deteriorates.

2. Checklist Item 14 – Resale

27. Section 271(c)(2)(B)(xiv) of the Act requires that a BOC make “telecommunications services . . . available for resale in accordance with the requirements of section 251(c)(4) and section 252(d)(3).”⁶⁷ Based on the record in this proceeding, we conclude that Verizon demonstrates that it satisfies the requirements of this checklist item in Connecticut. In addressing Verizon’s compliance with checklist item 14, we waive our section 271 procedural “freeze frame” requirements to the extent necessary to allow us to consider Verizon’s expanded resale offering of DSL services through its advanced services affiliate, Verizon Advanced Data, Inc. (VADI). In the discussion below, we set forth the legal requirements pertaining to Verizon in view of the *ASCENT* order,⁶⁸ apply our waiver standard to the facts at hand, and then discuss our findings of checklist compliance.

28. *Legal Requirements.* In January 2001, the United States Court of Appeals for the District of Columbia Circuit held, in *ASCENT v. FCC*, that data affiliates of incumbent LECs are subject to all obligations of section 251(c) of the Act.⁶⁹ In this proceeding, we require that Verizon demonstrate for the first time that VADI provides DSL and other advanced services in accordance with the decision in *ASCENT*.⁷⁰ As discussed below, we conclude that, pursuant to the decision in *ASCENT*, Verizon is required to allow a competitive LEC to resell DSL service over lines on which the competitive LEC resells Verizon’s voice service even though the DSL service is provided exclusively by Verizon’s advanced services affiliate. This conclusion

⁶⁷ 47 U.S.C. § 271(c)(2)(B)(xiv). See Appendix D at D-36, para. 68.

⁶⁸ *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001) (*ASCENT*).

⁶⁹ The court stated that, “the Act’s structure renders implausible the notion that a wholly owned affiliate providing services with equipment originally owned by its ILEC parent, to customers previously served by its ILEC parent, marketed under the name of its ILEC parent, should be presumed to be exempted from the duties of that ILEC parent.” *ASCENT*, 235 F.3d at 668.

⁷⁰ Specifically, the *ASCENT* decision overturned the Commission’s determination in the *SBC/Ameritech Order* that, because the separate advanced services affiliate was not a successor or assign of the BOC, the separate advanced services affiliate was not subject to the resale obligations of section 251(c)(4). See *Application of Ameritech Corp. and SBC Communications, Inc. for Transfer of Control of Corporations Holding Commission Licenses and Lines*, CC Docket No. 98-141, Memorandum Opinion and Order, 14 FCC Rcd 14712 (1999). Because the Commission incorporated by reference the successor or assign analysis of the *SBC/Ameritech Order* into the *Bell Atlantic/GTE Order*, the D.C. Circuit’s decision also impacts the Commission’s conclusion in the *Bell Atlantic/GTE Order*. See *Application of GTE Corp., Transferor, and Bell Atlantic Corp., Transferee, For Consent to Transfer Control*, CC Docket No. 98-184, Memorandum Opinion and Order, 15 FCC Rcd 14032 (2000); *Verizon Massachusetts Order*, 16 FCC Rcd at 9111, n.705. The Commission did not address the *ASCENT* decision in the *Verizon Massachusetts Order* because the court’s mandate had not issued when Verizon filed that application. *Id.* 16 FCC Rcd at 9111, para. 219.

addresses many of the concerns raised by commenting parties challenging Verizon's continued claim that it is not legally required to expand its offering of DSL for resale.⁷¹

29. In an *ex parte* letter dated July 6, 2001, Verizon stated that VADI would expand its DSL resale offering in Connecticut, allowing a competitive LEC to resell DSL service over a line on which the competitive carrier resells Verizon's voice service.⁷² At the same time, Verizon maintains that VADI "does not have an obligation to make its DSL service available for resale where other carriers are providing the voice service on the line."⁷³ Verizon's July 6 *ex parte* letter also contains illustrative tariff pages for its expanded resale offering of DSL. VADI implemented these changes through revisions to its F.C.C. Tariff No. 1, which became effective on July 20, 2001.⁷⁴

30. In light of the *ASCENT* decision, we cannot accept Verizon's contention that it is not required to offer resale of DSL unless Verizon provides voice service on the line involved.⁷⁵ As an initial matter, we reject this argument based on the plain language of section 251(c)(4). Section 251(c)(4) states that incumbent LECs must "offer for resale at wholesale rates any telecommunications service that [they] provide[] at retail"⁷⁶ Verizon and VADI, which are subject to the same resale obligations, currently provide local exchange and DSL services to retail customers over the same line. Therefore, we find that, because Verizon and VADI offer these services on a retail basis, these services are eligible for a wholesale discount under section 251(c)(4). Accordingly, we conclude that Verizon must make available to resellers, at a wholesale discount, the same package of voice and DSL services that it provides to its own retail end-user customers.

31. We also reject Verizon's position on the resale of DSL on two additional grounds. First, Verizon argues that it currently provides DSL services through its affiliate VADI, and VADI provides such services exclusively through a line sharing arrangement with Verizon. Therefore, according to Verizon, the only DSL services that VADI must make available for

⁷¹ See AT&T Supplemental Comments at 2-3; ASCENT Supplemental Comments at 4; Advanced Telecom Group, Inc. (ATG) Supplemental Comments at 2-3.

⁷² Letter from Dee May, Executive Director – Federal Regulatory, Verizon, to Dorothy T. Attwood, Chief, Common Carrier Bureau, Federal Communications Commission, CC Docket No. 01-100 at 1 (filed July 6, 2001) (Verizon July 6 *Ex Parte* Letter). Previously, Verizon's separate advanced services affiliate offered for resale, at a wholesale discount, its DSL services only to end users of Verizon's voice services.

⁷³ *Id.*

⁷⁴ Letter from Jane Jackson, Chief, Competitive Pricing Division, Federal Communications Commission, to Donald R. Fowler, Director – Tariffs, Verizon Advanced Services Inc. (July 19, 2001) (Special Permission Letter) (granting VADI's application and assigning Special Permission No. 01-064 and waiving 47 C.F.R. §§ 61.38 and 61.58).

⁷⁵ Verizon July 6 *Ex Parte* Letter at 1.

⁷⁶ 47 U.S.C. § 251(c)(4).

resale are those provided to Verizon voice customers because, under the Commission's rules, an incumbent LEC is only required to provide line sharing, or access to the high frequency portion of the loop, when the incumbent provides the underlying voice service. Thus, Verizon takes the position that there is no DSL service for VADI to resell when a competitive LEC provides voice service over the line involved.⁷⁷ Verizon's position is the same regardless of whether the competitive LEC is reselling voice service or providing voice service over a UNE loop or UNE-platform (UNE-P). We find that Verizon's position is based on a misapplication of this Commission's line sharing rules. Line sharing is not a retail service; it is a UNE provided under section 251(c)(3). Therefore, the restriction on the line sharing UNE is inapplicable to Verizon's obligations relating to retail services. Resellers purchase retail services at a wholesale discount, they do not purchase UNEs.

32. Second, Verizon's argument rests on precisely the conduct ruled unlawful by the court – the use of an affiliate to avoid section 251(c) resale obligations. The *ASCENT* decision made clear that Verizon's resale obligations extend to VADI, whether it continues to exist as a separate entity or whether it is integrated into Verizon, and regardless of the way Verizon structures VADI's access to the high frequency portion of the loop.⁷⁸ Accordingly, we conclude that to the extent Verizon's attempt to justify a restriction on resale of DSL turns on the existence of VADI as a separate corporate entity (or even a separate division), it is not consistent with the *ASCENT* decision. We also emphasize that Verizon's policy of limiting resale of DSL services to situations where Verizon is the voice provider severely hinders the ability of other carriers to compete. Specifically, Verizon's policy prevents competitive resellers from providing both DSL and voice services to their customers, while Verizon is able to offer both together to its customers. This result is clearly contrary to the pro-competitive Congressional intent underlying section 251(c)(4).

33. We conclude, in light of the *ASCENT* decision, that VADI must permit resale of DSL by a competitive LEC over lines on which the competitive LEC provides voice service through resale of Verizon service. A number of commenting parties argue that we should also require that Verizon permit resale of DSL over lines on which a competitive LEC provides voice service using a UNE loop or UNE-P.⁷⁹ We conclude, however, that resale of DSL service in conjunction with voice service provided using the UNE loop or UNE-P raises significant

⁷⁷ Verizon Lacouture/Ruesterholz Reply Affidavit at para. 108. Verizon states "VADI does not provide DSL service to customers where voice service is provided by other carriers. Because VADI does not provide DSL at all on these lines (whether wholesale or retail), there is no DSL service to resell." *Id.*

⁷⁸ Verizon argues that its position would be the same whether the DSL services were offered by a separate affiliate or on an integrated basis. If the services were offered on an integrated basis, however, there would be no line sharing; Verizon would simply be providing both voice and DSL services over a single loop. Verizon would thus still have an obligation under the Act to make each service available for resale at wholesale rates.

⁷⁹ See AT&T Supplemental Comments at 9; ASCENT Supplemental Comments at 13; ATG Supplemental Comments at 3-5.

additional issues concerning the precise extent of an incumbent LEC's resale obligations under the Act and the *ASCENT* decision that we do not reach in this proceeding.

34. *Waiver of Procedural Requirements.* We waive the Commission's general procedures restricting the submission of late filed information by section 271 applicants on our own motion pursuant to section 1.3 of the Commission's rules,⁸⁰ to the extent necessary to consider the additional information and tariff changes discussed above. The Commission's procedural rules governing section 271 applications provide that when an applicant files new information after the comment date, the Commission retains discretion to start the 90-day review period again or to accord such information no weight in determining section 271 compliance.⁸¹ There is an exception to this approach for new information that is directly responsive to allegations raised in the comments, however. The Commission has also strictly limited the consideration of other developments that occur after the date for filing comments.

35. "[A] waiver is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."⁸² We conclude that a deviation from the general procedures concerning consideration of late-filed information or new developments is warranted in this proceeding and will serve the public interest by allowing consideration of VADI's tariff filing to allow expanded resale of DSL. We emphasize, however, that in the absence of special circumstances, we will adhere to our general procedures designed to ensure a fair and orderly process for the consideration of section 271 applications.

36. There are a number of special circumstances that support grant of this waiver to permit consideration of these tariff revisions in determining section 271 compliance, and thus satisfy the first element of the test for grant of the waiver described above. This is the first time that the Commission has applied the *ASCENT* decision. Thus, it is understandable that Verizon would need to make late filed changes to this application to ensure compliance with that decision. The changes at issue are also relatively limited in scope. VADI is simply making tariff changes that expand its offering of DSL resale and implementing interim changes in its internal procedures in order to process orders for its expanded DSL resale offering. As a result, these changes place only a limited additional analytical burden on the Commission staff and commenting parties. This situation does not involve consideration of promises of future action, which may or may not actually take place, since the tariff revisions have become effective. The new internal procedures for order processing are also in effect. Given the extremely limited number of orders we expect for this offering in Verizon's Connecticut service area, any potential

⁸⁰ 47 C.F.R. § 1.3.

⁸¹ See *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, 14 FCC Rcd 16128, 16130 (1999); *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 01-734 (CCB rel. Mar. 23, 2001).

⁸² *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 at 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

element of uncertainty concerning the interim ordering process does not warrant withholding this procedural waiver.⁸³ In light of the relatively limited scope of these changes, interested parties have had a reasonable opportunity to evaluate them and comment in a meaningful manner.⁸⁴ The limited scope of these changes has also permitted the Commission staff an adequate opportunity to evaluate them. In addition, this is a situation in which Verizon has responded positively to criticism in the record by taking action that will clearly foster the development of competition.⁸⁵ Finally, this is otherwise a generally persuasive application for a very limited service area and demonstrates a commitment by Verizon to opening local markets to competition.

37. We also conclude that grant of this waiver will serve the public interest and thus satisfy the second element of the waiver standard described above. In particular, grant of this waiver permits the Commission to act on this section 271 application within the original timeframe without the procedural delays inherent in restarting the 90-day clock. Considerations of administrative efficiency are particularly important in the case of this application which covers an extremely limited local service area. Grant of this waiver also represents a positive response to Verizon's decision to make pro-competitive tariff changes in response to the comments in this proceeding. Given that interested parties have had a meaningful opportunity to comment, we do not believe that the public interest would be served by refusing to waive the Commission's procedural rules in this instance.

38. Although we waive our section 271 procedural requirements to a limited extent here, we do not intend to allow a pattern of late-filed changes to threaten the Commission's ability to maintain a fair and orderly process for consideration of section 271 applications. Thus, we continue to expect applicants to make every effort to ensure that section 271 applications are complete when filed. Indeed, we believe it will be rare for future applicants to satisfy the high bar for waiver of these procedural requirements. We see no reason to delay, however, the effective date of this section 271 authorization for 60 days or to approve this application on a "conditional basis" as proposed by ASCENT.⁸⁶ While we recognize that the Commission delayed the effectiveness of SBC's authorization in the *SWBT Kansas/Oklahoma Order*, we believe the circumstances here do not warrant such a delay.

39. *Checklist Compliance – Non-pricing Issues.* Based on the evidence in the record, including the tariff revisions discussed above, we conclude that Verizon demonstrates that it makes telecommunications services available for resale in Connecticut in accordance with

⁸³ ATG Supplemental Comments at 4.

⁸⁴ *Comments Requested In Connection with Verizon's Section 271 Application For Connecticut*, Public Notice, DA 01-1609 (CCB rel. Jul. 6, 2001).

⁸⁵ This is very different from an instance in which late-filed material provided by the applicant consists of additional arguments or information intended to demonstrate that its current performance or pricing satisfies the requirements of section 271.

⁸⁶ See ASCENT Supplemental Comments at 12-13.

sections 251(c)(4) and 252(d)(3), and thus satisfies the requirements of checklist item 14. Verizon has a concrete and specific legal obligation in its interconnection agreements and tariffs to making its retail services available to competing carriers at wholesale rates.⁸⁷ In addition, the revisions to VADI's federal tariff, which are currently effective, and the associated changes in Verizon's and VADI's internal processes now permit a competitive LEC to resell DSL over a line on which the competitive LEC provides voice service to the end user through resale of Verizon service.⁸⁸ We conclude that these changes are sufficient to satisfy existing resale requirements for DSL and bring Verizon into present compliance with the requirements of checklist item 14. Given the fact that Verizon has an effective tariff as well as a manual order processing system in place to immediately begin taking orders, we cannot accept the contentions by certain commenting parties that this amounts to no more than a promise of future compliance.⁸⁹

40. We recognize that commenting parties are correct in pointing out that Verizon has little, if any, operational experience with the interim manual order processing procedures for its expanded DSL resale offering.⁹⁰ In view of the unique circumstances of this application, which involves a service area of only approximately 60,000 access lines, we conclude that this does not justify a finding of checklist noncompliance. The volume of orders for the expanded DSL resale offering in Connecticut is likely to be very small and Verizon will be able to process orders within a reasonable period of time using the interim manual process. In the unlikely event that serious problems were to develop with the interim manual ordering process, Verizon would, of course, be subject to enforcement action under section 271(d)(6).

41. We are not persuaded that the interim manual ordering process for Verizon's expanded DSL resale offering constitutes an unreasonable restriction on resale as argued by ATG.⁹¹ We recognize that competitive LECs will have to place separate orders with Verizon for voice service and with VADI for DSL service. However, in light of the fact that the Commission required Verizon to provide advanced services through a separate affiliate under the *GTE/Bell Atlantic Merger Conditions Order*,⁹² and that we are interpreting Verizon's resale obligations under the *ASCENT* order for the first time, we believe that the approach Verizon is taking in the

⁸⁷ Verizon Application at 54; Verizon Lacouture/Ruesterholz Decl. at para. 388.

⁸⁸ Verizon July 6 *Ex Parte* Letter; Tariff Revision filed by VADI under Transmittal Number 16, Dated July 19, 2001. The new tariff became effective July 20, 2001.

⁸⁹ See AT&T Supplemental Comments at 11; ASCENT Supplemental Comments at 9.

⁹⁰ See AT&T Supplemental Comments at 10-11; ASCENT Supplemental Comments at 11; ATG Supplemental Comments at 4-5.

⁹¹ See ATG Supplemental Comments at 4-5.

⁹² *Application of GTE Corp., Transferor, and Bell Atlantic Corp., Transferee, For Consent to Transfer Control*, 15 FCC Rcd 14032, App. D, para. 1 (2000).

interim in Connecticut is reasonable. We also note Verizon and VADI also have to place separate orders to provision service to the end user.

42. There are several other aspects of the expanded DSL resale offering and the revised internal order processing procedures that are acceptable on an interim basis, but which we expect Verizon to revise as it develops permanent order processing procedures. In particular, we expect permanent order processing procedures will eliminate Verizon's requirement that the reseller must already be the voice provider on the line involved before Verizon can process orders for DSL resale. We also expect permanent ordering procedures will eliminate Verizon's requirement that it disconnect resold DSL service if the customer switches from the reseller back to Verizon as the underlying voice provider. In addition, we expect that Verizon's performance in providing this expanded resale offering will ultimately be reflected in its performance data pursuant to procedures developed in coordination with the Connecticut Department. Contrary to ATG's assertions we see no need to reflect information on the use of this interim process in performance data before Verizon and its competitors have had an opportunity to address this at the state level. Moreover, if VADI's retail DSL offering were expanded to be available over non-copper facilities, we would expect Verizon to mirror this change in its DSL resale offering.⁹³

43. *Checklist Compliance – Pricing.* In concluding that Verizon demonstrates that it is in compliance with the requirements of checklist item 14, we rely on the resale discount and rates in the currently effective tariff. Contrary to ASCENT's argument,⁹⁴ we do not believe that the mere possibility that Verizon will seek an increase in these non-recurring charges creates a sufficient level of uncertainty to warrant a finding of checklist noncompliance. However, we note that any modification of the tariff to increase these non-recurring charges would necessitate a reevaluation of Verizon's compliance with section 271.

44. We also note that Verizon has stated in this proceeding that it will modify wholesale and resale rates in Connecticut "contemporaneously" with the modification of these rates in New York.⁹⁵ This addresses the concerns raised by AT&T concerning whether Verizon would continue to mirror these rates.⁹⁶ We understand this to be part of Verizon's overall

⁹³ We are not persuaded by ATG's argument that Verizon should make its bundled offerings that include deregulated CPE and internet access available for resale. The resale obligation clearly extends only to telecommunications services offered at retail. See 47 C.F.R. § 51.605 (requiring an incumbent LEC to offer, on a wholesale basis, any telecommunications service that it offers to retail customers).

⁹⁴ ASCENT Supplementary Comments at 11.

⁹⁵ See Reply Comments of Verizon New York at 5 n.2 (referencing Connecticut Department Comments at 13: "Of course, Verizon will, as the DPUC [Connecticut Department] 'fully expects,' 'uphold its commitment' to ensure that any changes in its New York operations be 'directly reflected in its Connecticut operations.'").

⁹⁶ As noted above, AT&T in its comments did not oppose Verizon's section 271 application.

commitment to continue to mirror New York wholesale rates, as required by the Connecticut Department.⁹⁷

B. Other Issues

1. Checklist Item 1 – Interconnection and Collocation

a. Interconnection and Collocation

45. Section 271(c)(2)(B)(i) of the competitive checklist requires that the BOCs provide equal-in-quality interconnection on terms and conditions that are just, reasonable and nondiscriminatory in accordance with the requirements of sections 251 and 252.⁹⁸ Based on the present record, we conclude that Verizon demonstrates that it is in compliance with the requirements of this checklist item.⁹⁹ Among other things, we conclude that Verizon provides interconnection at all technically feasible points, including a single point of interconnection. In reaching this conclusion, we note that Verizon has eliminated the Geographically Relevant Points of Interconnection Proposal (GRIPS) from its SGAT as directed by the Connecticut Department to ensure that the SGAT terms in Connecticut are fully consistent with those in New York.¹⁰⁰ We note that this eliminates the issues that such a provision would raise.¹⁰¹

b. Collocation Pricing

46. Based on the evidence in the record, we find that Verizon offers collocation¹⁰² arrangements at just, reasonable and nondiscriminatory rates in accordance with section 251(c)(6)¹⁰³ of the Act, in compliance with checklist item 1.

⁹⁷ See Reply Comments of Verizon New York at 4 (“The DPUC also confirms that, just as Verizon’s wholesale products and rates in Connecticut are the same as they are in New York today, they will continue to be the same in the future”). While the Connecticut Department has chosen to track New York pricing, we recognize that there are other means of demonstrating checklist compliance.

⁹⁸ See Appendix D at D-8-12, paras. 17-25.

⁹⁹ Verizon Application at 17-19; Verizon Lacouture/Ruesterholz Decl. at paras. 21-32, 39.

¹⁰⁰ Verizon Reply Comments at n.24; Verizon Lacouture/Ruesterholz Reply Declaration at Attachment 45.

¹⁰¹ In prior section 271 orders, the Commission has found that a BOC must permit interconnection at a single point. *Verizon Massachusetts Order*, 16 FCC Rcd at 8990, para. 3.

¹⁰² Collocation generally is a method whereby requesting carriers may obtain interconnection and access to unbundled network elements from incumbent local exchange carriers. See *Local Competition First Report and Order*, 11 FCC Rcd at 15816, para. 629, and App. B-10.

¹⁰³ 47 U.S.C. § 251(c)(6).

47. The Connecticut Department approved Verizon's Collocation Tariff for the state on February 23, 2000.¹⁰⁴ Rates for collocation in Connecticut are the same as those in New York,¹⁰⁵ which were found by the Commission to be in compliance with sections 251 and 271 of the Act in the *Bell Atlantic New York Order*.¹⁰⁶ Before that, the New York Commission also concluded that Verizon provided collocation agreements and tariffs that were consistent with its own and this Commission's orders and in compliance with checklist item 1.¹⁰⁷

48. We agree with the Connecticut Department that it is reasonable under the circumstances for Connecticut to mirror New York's collocation rates in satisfaction of section 251 and 271 requirements.¹⁰⁸ Indeed, under the unique circumstances of this application, we would expect collocation rates for these areas – which are contiguous to New York – to be extremely close to those of New York. Verizon is the incumbent local exchange company in only two Connecticut communities, Greenwich and Byram, which adjoin Verizon's service area in New York as part of the New York City metropolitan area. Verizon primarily uses its operations, procedures and employees based in New York to serve this limited area in Connecticut.¹⁰⁹ Verizon uses these New York processes and procedures to provide collocation to

¹⁰⁴ See Verizon Connecticut Application, App. B, Vol. 1, Tab 3, Sub-Tab A, State of Connecticut Department of Public Utility Control, Application of New York Telephone to Introduce Rates and Charges for Collocation for Certified Local Exchange Carriers: Decision, Docket No. 99-05-30 (February 23, 2000) (*Connecticut DPUC Collocation Order*); see also Verizon Connecticut Application App. B, Tab 14, Sub-Tab F, *State of Connecticut No. 11-Telephone Tariff Network Interconnection Services*.

¹⁰⁵ See Verizon Application at 20.

¹⁰⁶ 15 FCC Rcd at 3987, para. 78.

¹⁰⁷ See *id.*

¹⁰⁸ See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6276-77, para. 82 n.244. The Commission has encouraged states with limited resources to take advantage of the efforts devoted by New York and Texas in establishing TELRIC-compliant prices, by relying where appropriate on the existing work product of those states. In utilizing the New York Public Service Commission's expertise, the Connecticut Department noted that "NYPSC's comprehensive investigation was conducted in a manner that is consistent with CTDPU [Connecticut Department] and FCC standards," and that the Commission granted Verizon's section 271 application in New York. See Connecticut Department Comments at 4-5. The Connecticut Department believes it is reasonable for Verizon to have consistency between its Connecticut and New York operations, and in the past has permitted Verizon to offer various services in Connecticut at rates that mirror those approved in New York. See *Connecticut DPUC Collocation Order* at 3. Verizon also asserts that in recognition of using its New York based operations for service provisioning in Connecticut, the Connecticut Department "typically requires Verizon to mirror New York wholesale tariffs and rates in Connecticut." See Verizon Lacouture/Ruesterholz Decl. Attach. C, para. 13.

¹⁰⁹ See Verizon Application at 10-11. Thirteen Verizon employees are stationed in Connecticut and work in the Greenwich switching office, reporting to managers in New York. The central office serving Byram is located in Port Chester, NY, where Verizon has two service garages for operations, installation and maintenance for customers in Greenwich, Byram and throughout Westchester County, NY. Verizon asserts that it uses the same New York-based wholesale operations and systems for serving competitive LECs in Greenwich and Byram as it does for serving competitive LECs in New York. See Letter from Dee May, Verizon Executive Director – Federal (continued....)

competitors in Connecticut in exactly the same way it does in New York.¹¹⁰ In adopting collocation rates for Connecticut that mirror New York's rates, the Connecticut Department found that Verizon's cost studies in New York followed Connecticut and Commission guidelines and employed a long run cost approach that complied with the Act. The Connecticut Department concluded that Verizon's New York cost studies could, therefore, be relied upon to develop reasonable rates that supported Verizon's collocation tariff in Connecticut.¹¹¹

49. In light of the unique circumstances of this application, we do not have the same concerns here as might arise in other situations in which a BOC bases its section 271 application in one state on the adoption of another state's rates. Furthermore, the Connecticut Department also requires Verizon to continue to mirror New York's rates in the future: any New York collocation changes are to be filed in Connecticut's tariffs within 10 days of New York's approval.¹¹² We note that the Connecticut Department's policy in this regard is a consistent and reasonable approach to safeguard ongoing pricing compliance with the Act.¹¹³

50. In addition, we find that the single collocation issue raised by a commenter is not germane to this application. Covad's objection to Verizon's proposed collocation price increase made "in a recent FCC filing" is not relevant to this section 271 proceeding because it does not address collocation in this checklist item.¹¹⁴ Covad refers to Verizon's filing of collocation rates in the expanded interconnection tariff that is part of Verizon's interstate access service offering under section 201 of the Act.¹¹⁵ As the Commission pointed out in the *Bell Atlantic New York Order*, however, the provision of interstate access services is not a checklist compliance item.¹¹⁶

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Regulatory, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket, No. 01-100, at 1-2 (June 8, 2001) (Verizon June 8 *Ex Parte* Letter); see also Connecticut Department Comments.

¹¹⁰ See Verizon Application at 19.

¹¹¹ See *Connecticut DPUC Collocation Order* at 2-3.

¹¹² See Connecticut Department Comments at 12-13.

¹¹³ See Letter from Sandra Dilorio Thorn, Vice President & General Counsel, NY & CT, Verizon New York Inc., to Ms. Louise Rickard, Acting Executive Secretary, Connecticut Department of Public Utility Control, *Compliance Tariff Revision for Connecticut No. 11-Telephone Tariff* (April 3, 2001) (submitting revisions to its Connecticut tariff that mirrored a change to how DC power charges are applied in New York). Of course, the Connecticut Department is free to adopt other means of ensuring ongoing compliance with the Act. If it does so, it need not continue to mirror New York rates.

¹¹⁴ See Covad Comments at 7-8.

¹¹⁵ See 47 U.S.C. § 201; see also *Local Competition First Report and Order*, 11 FCC Rcd at 15808, para. 610 (distinguishing collocation subject to expanded interconnection rules from that subject to section 251 and 252 checklist requirements, stating that "...section 251(I) expressly provides that '[n]othing in this section shall be construed to limit or otherwise affect the Commission's authority under section 201, which provided the statutory basis for our *Expanded Interconnection* rules.").

¹¹⁶ *Bell Atlantic New York Order*, 15 FCC Rcd at 4126-27, para. 340 ("We do not believe that checklist compliance is intended to encompass the provision of tariffed interstate access services simply because these services use some (continued....)

Accordingly, the collocation matter that Covad raises related to Verizon's interstate access tariff filing is not properly considered here. We note, however, that this matter was brought before this Commission and is the subject of an ongoing tariff investigation.

2. Checklist Item 2 – Unbundled Network Elements

51. Checklist item 2 of section 271 states that a BOC must provide “[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)” of the Act.¹¹⁷ Based on the record, we conclude that Verizon demonstrates compliance with this checklist item. In reaching this conclusion, we note that the Connecticut Department also concludes that Verizon has satisfied the requirements of checklist item 2.¹¹⁸ Also, with limited exceptions discussed below, the commenting parties do not challenge Verizon's compliance with checklist item 2. We address the three areas where commenters challenge Verizon's compliance: (1) provision of UNE combinations; (2) Operations Support Systems (OSS); and (3) UNE pricing.

a. Provision of UNE Combinations

52. As previously discussed, Verizon uses its New York systems and processes to serve its Connecticut subscribers,¹¹⁹ and the Connecticut Department has ordered Verizon to continue to make available to competitive LECs in Connecticut all UNE combinations Verizon offers in New York.¹²⁰ Verizon has also verified that it will continue to comply with the Connecticut Department's order on these issues.¹²¹ We conclude that Verizon has adequately addressed AT&T's concern that it will continue to provide in Connecticut all UNE combinations

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of the same physical facilities as a checklist item. We have never considered the provision of interstate access services in the context of checklist compliance before.”). Moreover, the Commission has previously stated that “the process of negotiating agreements for access to unbundled elements pursuant to sections 251 and 252 and the process of taking expanded interconnection service pursuant to tariffs filed under section 201 exist as two separate options for an interconnector. If an interconnector chooses to take service pursuant to an interstate expanded interconnection tariff, the interconnector's collocation arrangement is governed by the standards of the section 201 tariffing process, and not by the standards of section 251.” See *New York Telephone Company and New England Telephone and Telegraph Company Petition for Extension of Waiver, Memorandum Opinion and Order*, 12 FCC Rcd 20954, 20961-62, para. 16 (1997), citing the *Local Competition First Report and Order*, 11 FCC Rcd at 15808.

¹¹⁷ 47 U.S.C. § 271(B)(ii).

¹¹⁸ See Connecticut Department Comments at 6.

¹¹⁹ See Sec. I, *supra*; Verizon Application at 9-14; Department of Justice Evaluation at 1-2.

¹²⁰ Connecticut Department Comments at 12-13.

¹²¹ See Verizon Reply at 4-5 and n.2.

it currently provides in New York.¹²² We note that the approach taken by the Connecticut Department is one reasonable way to safeguard future compliance.

b. OSS

53. The Commission has consistently found that nondiscriminatory provision of access to OSS¹²³ is a prerequisite to the development of meaningful local competition and required that section 271 applicants demonstrate that they provide such access to OSS as a UNE.¹²⁴ We find that Verizon demonstrates that it provides nondiscriminatory access to its OSS based on the present record.¹²⁵

54. We do not agree with Covad's claims that Verizon provides competitive LECs with inadequate access to loop make-up information.¹²⁶ As Covad acknowledges, in approving Verizon's Massachusetts section 271 application, the Commission rejected identical arguments concerning the same interim processes for access to loop make-up information through Verizon's LFACs database.¹²⁷ In that proceeding, the Commission found that Verizon's process for providing competitive LECs access to loop make-up information complies with our requirements.¹²⁸ In the *Verizon Massachusetts Order*, the Commission accepted Verizon's statement that it will implement a permanent process for access to loop qualification information by October 2001, and found that the interim process in place was providing useful, detailed information to competing carriers concerning the ability of loops to support xDSL services, within reasonable time frames.¹²⁹ Covad has not presented any new arguments or information that would cause us to reach a different conclusion here.

55. We also conclude that Covad's claims concerning order flow-through do not warrant a finding of checklist noncompliance. In particular, Covad claims that Verizon's flow-through data suggest it is not flowing through the vast majority of Covad's orders, while Verizon's own retail orders flow-through "with near precision."¹³⁰ Verizon's flow-through rates

¹²² AT&T Comments at 2.

¹²³ The Commission has defined OSS as the various systems, databases, and personnel used by incumbent LECs to provide service to their customers. See *Bell Atlantic New York Order*, 15 FCC Rcd at 3989-90, para. 83; *Bell South South Carolina Order*, 13 FCC Rcd at 588; *SWBT Texas Order*, 15 FCC Rcd at 18396-97, para. 92.

¹²⁴ See Appendix D at D-12-15, paras. 26-32.

¹²⁵ See generally Appendix B.

¹²⁶ Covad Comments at 4-5.

¹²⁷ Covad Comments at 1-2.

¹²⁸ See *Verizon Massachusetts Order*, 16 FCC Rcd at 9021-22, 9024-25, paras. 61-62, 67.

¹²⁹ *Id.*

¹³⁰ Covad Comments at 6.

vary widely for different competitive LECs during the period from January through April 2001.¹³¹ Although Verizon's commercial data show low *average* resale total flow-through rates, the average UNE total flow-through rates are significantly better.¹³² Given that some competing carriers are achieving much higher flow-through rates than others, we conclude that Verizon's OSS is *capable* of flowing through competing carriers' orders in substantially the same time and manner as Verizon's own orders.¹³³ While Covad may have experienced problems with order flow through in Connecticut, other competing carriers have been able to achieve relatively high flow through rates.¹³⁴

56. Because all competing carriers interface with the same Verizon system, we find, on this record, that it would not be appropriate to attribute this wide range of results entirely to Verizon. The Commission has consistently stated that a BOC is not accountable for orders that fail to flow-through due to competing carrier-caused errors.¹³⁵ We expect that Verizon's flow-through rates will improve over time as individual carriers gain experience with the OSS and as Verizon conducts monthly workshops for competing carriers to help them improve their order submissions.¹³⁶ Based on this record, we conclude that the flow-through problems experienced by Covad are an isolated problem that does not demonstrate discrimination.¹³⁷

c. UNE Pricing

57. Based on the evidence in the record, we find that Verizon's charges for UNEs made available in Connecticut to other telecommunications carriers are just, reasonable, and nondiscriminatory, and in compliance with checklist item 2.¹³⁸

¹³¹ See Verizon McLean/Wierzbicki Declaration at paras. 45-47 and Attach. H.

¹³² See OR 5-01 (Percent Flow-Through Total), Appendix B at B-6, B-10. Verizon's average total flow through in New York ranges from about 43 to 55 percent for resale orders and 81 to 84 percent for UNE orders from December through April.

¹³³ For example, between December 2000 and February 2001, flow-through rates for competitive LECs with at least 100 orders in a month range from under 20% to 80% for resale; from under 10% to more than 90% for UNE orders other than platform; and from under 10% to over 93% for UNE platform orders. See Verizon McLean/Wierzbicki Declaration at paras. 45-47 and Attach. H.

¹³⁴ See Verizon Reply at 10, n.6; Verizon McLean/Wierzbicki Decl. at para. 45; Verizon Lacouture/Ruesterholz Reply Decl. at para. 42.

¹³⁵ See *Bell Atlantic New York Order*, 15 FCC Rcd at 4039-40, para. 167, 4049, para. 181; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20674, para. 111.

¹³⁶ See Verizon McLean/Wierzbicki Decl. at paras. 48-50.

¹³⁷ We stress, however, that we will continue to monitor Verizon's performance in this area, and we will take swift and appropriate enforcement action in the event that Verizon's flow-through rates deteriorate.

¹³⁸ Checklist item 2 of section 271 states that a BOC must provide "[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)" of the Act. Section 251(c)(3) (continued....)

58. The Connecticut Department concluded that Verizon has satisfied the requirements of this checklist item. The Department established its current prices for UNEs¹³⁹ and UNE combinations¹⁴⁰ in separate decisions on May 17, 2000. Rates for Verizon's UNEs and UNE combinations for Byram and Greenwich in Connecticut were adopted from the New York rates,¹⁴¹ which the Commission found to be TELRIC-based and in compliance with section 271 requirements in the New York section 271 proceeding.¹⁴² The Connecticut Department also requires any New York rate changes to be filed by Verizon in Verizon's Connecticut's tariffs within 10 days of the effective date in New York, and the rates are effective automatically on 21 days notice.¹⁴³

59. We agree with the Connecticut Department that it is reasonable under the circumstances for it to rely on New York's UNE rates. The same general analysis of the special circumstances surrounding the manner in which Verizon provides service in Connecticut in the context of collocation pricing also applies here. This includes Verizon's use of its New York-based operations and systems to serve a limited area in Connecticut, and the resulting approach to mirror New York's rates for this area. Verizon states that its costs in its Connecticut service area are the same or higher than its costs in New York on the basis of a line density

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requires LECs to provide "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. . . ." Section 252(d)(1) requires that a state commission's determination of the just and reasonable rates for network elements shall be based on the cost of providing the network elements, shall be nondiscriminatory, and may include a reasonable profit. The Commission has determined that prices for unbundled network elements (UNEs) must be based on the total element long run incremental cost (TELRIC) of providing those elements. Although related pricing issues are pending review by the Supreme Court, the Commission's rules remain in effect for this application.

¹³⁹ See Verizon Application, App. B, Vol. 1, Tab 7, Sub-Tab D, DPUC Investigation into the Unbundling of the New York Telephone Company's Local Telecommunications Network: [Connecticut] DPUC's Decision Approving BA-NY's Tariff No. 12, Docket No. 94-11-03 (May 17, 2000) (*Connecticut DPUC UNE Tariff Order*).

¹⁴⁰ See Verizon Application, App. B, Vol. 1, Tab 8, Sub-Tab C, Application of Bell Atlantic – Proposed Tariff for Unbundled Network Elements – Rebundled Service: [Connecticut] DPUC's Decision Approving BA-NY's Tariff for UNEs-Rebundled Service, Docket No. 99-03-21 (May 17, 2000) (*Connecticut DPUC UNE Combinations Tariff Order*).

¹⁴¹ See Verizon Application at 12; see also *Connecticut DPUC UNE Tariff Order* at 10 ("BA-NY's proposed Connecticut tariff essentially mirrors its UNE Tariff in New York (916 Tariff).")

¹⁴² See *Bell Atlantic New York Order*, 15 FCC Rcd at 4081-82, para. 238; Verizon Lacouture/Ruesterholz Decl. Attach. C, para. 15; see also Verizon Application App. B, Vol. 3a-b, Tab 14, Sub-Tabs C and D, Connecticut No. 10 – Telephone Network Combinations and State of Connecticut No. 12 – Telephone Network Elements [Tariff].

¹⁴³ See *Connecticut DPUC UNE Tariff Order* at 10-11 ("as committed to by BA-NY...the Department will require BA-NY to file identical amendments to the Connecticut UNE Tariff to the extent that modifications are made to the New York 916 Tariff. Specifically, BA-NY must implement all revisions within 10 business days of filing the amendment in New York.) and 12-13; see also *Connecticut DPUC UNE Combinations Tariff Order* at 15 (stating that BA-NY has committed to revising its Connecticut UNE combinations tariff to reflect New York changes to be filed within 10 business days after they are effective in New York.).

comparison.¹⁴⁴ as one would expect given the contiguous and limited geographic area at issue here. Also, the Connecticut Department found that compatibility between Connecticut and New York will provide consistency for competitive LECs which serve both areas and order UNEs from Verizon.¹⁴⁵ Furthermore, this consistency will be provided for in the future, because both the Connecticut Department and Verizon are committed to keeping Connecticut's rates the same as those in New York on a going-forward basis.

60. As we noted above, in light of these unique circumstances, we do not have to conduct the same analysis as we would in other situations in which a Bell Operating Company bases its section 271 application in one state on the adoption of another state's rate. We conclude the Connecticut Department's approach to relying on New York's rates is a reasonable one.

61. We note that AT&T, while not opposing Verizon's Connecticut 271 Application, asserts that Verizon should continue to keep UNE rates in Connecticut identical to those in New York.¹⁴⁶ The evidence submitted shows that AT&T's concerns have been addressed. The Connecticut Department has ordered Verizon to implement any New York UNE rate changes in Connecticut.¹⁴⁷ Verizon has also verified that it will continue to comply with the Connecticut Department's order on these issues.¹⁴⁸ We are satisfied that the requirements set out by the Connecticut Department and the commitment made by Verizon to timely mirror any changes to its New York UNE rates in Connecticut remove any doubt of Verizon's continuing obligation in this regard. We note that the approach taken by the Connecticut Department is one reasonable way to safeguard future compliance.

3. Checklist Item 5 – Transport

62. Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services."¹⁴⁹ We conclude, based upon the evidence in the record, including the unique circumstances presented by Verizon's extremely limited operations in Connecticut, that Verizon demonstrates that it provides both shared and dedicated transport in compliance

¹⁴⁴ See Verizon June 8 *Ex Parte* Letter at 1-2; see also *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6276-77, para. 82 n.244 and *Verizon Massachusetts Order* 16 FCC Rcd at 9000, 9002, paras. 22 and 28 (stating that one state's UNE rates could be adopted from another state with a presumption of compliance with pricing rules if certain conditions are met and if costs are demonstrated to be at or above the costs in the state whose rates were adopted.).

¹⁴⁵ Connecticut DPUC UNE Tariff Order at 10.

¹⁴⁶ See AT&T Comments.

¹⁴⁷ Connecticut Department Comments at 12-13.

¹⁴⁸ See Verizon Reply at 4-5 and n.2.

¹⁴⁹ 47 U.S.C. § 271(c)(2)(B). See also Appendix D.

with the requirements of checklist item 5.¹⁵⁰ We note that the Connecticut Department concludes that Verizon satisfies the requirements of this checklist item,¹⁵¹ and no commenter raises concerns with Verizon's performance relating to checklist item 5.

63. In prior section 271 applications, the Commission has reviewed the missed appointment rates for the provision of interoffice facilities to competitive LECs to determine whether the applicant was provisioning transport in a nondiscriminatory manner.¹⁵² However, due to the unique nature of Verizon's limited operations in Connecticut, there is no data on missed appointment rates, and there is likely to be little data on transport in Connecticut in the future. Specifically, Verizon provides local exchange service in Connecticut through only two central offices. Only one of the central offices is actually located in Connecticut; the other office serving Connecticut customers is located in New York. Given this network configuration, Verizon does not provide local (interoffice) transport between two wire centers/switches within the State of Connecticut. In addition, Verizon does not operate a tandem switch in Connecticut, but competitive LECs may obtain shared transport from Verizon by using Verizon's tandem switching and trunking arrangements in New York.¹⁵³

64. As a result, there is and will be very little competitive LEC demand for interoffice local transport facilities in Connecticut.¹⁵⁴ There are no reported orders for interoffice transport facilities in Connecticut during the four-month period from January through April 2001.¹⁵⁵ And, as of February 2001, Verizon has provisioned a total of only four interoffice transport facilities in Connecticut.¹⁵⁶ When there are low volumes of orders in the applicant state, we typically begin our analysis of compliance by reviewing performance in the "anchor" state¹⁵⁷ with higher volumes because that performance may be relevant to our determination on checklist compliance. We need not do so in regard to this particular checklist item, however, because looking to Verizon's performance in New York will not inform our judgment on compliance in

¹⁵⁰ Verizon Application at 44-45, Verizon Lacouture/Ruesterholz Decl. at paras. 260-268.

¹⁵¹ Connecticut Department Comments at 7.

¹⁵² See *Bell Atlantic New York Order*, 15 FCC Rcd at 4126; para 339; *SWBT Texas Order*, 15 FCC Rcd at 1851, para. 333; *Verizon Massachusetts Order*, 15 FCC Rcd at 9105-104 para. 209.

¹⁵³ Verizon Lacouture/Ruesterholz Decl. at para. 265.

¹⁵⁴ We believe that the small size of Verizon's Connecticut service area has a greater impact on the demand for transport facilities than it does on demand for services and facilities covered by other checklist items since demand for transport is a function of the number of offices that can be connected by interoffice transport facilities.

¹⁵⁵ See Appendix C at C-14.

¹⁵⁶ Verizon Lacouture/Ruesterholz Decl. at para. 262.

¹⁵⁷ An "anchor" state is a state where the applicant has had prior successful section 271 application. See, e.g., *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6254, para. 36.

Connecticut.¹⁵⁸ Our finding that Verizon satisfies this checklist item is a contextual decision based on the totality of the unique circumstances in Connecticut.¹⁵⁹

65. In particular, we conclude that the extremely limited extent of Verizon's service area in Connecticut renders the provision of interoffice transport of relatively limited significance for purposes of determining whether Verizon's Connecticut local exchange market is open to competition. As detailed above, there is very little competitive LEC demand for interoffice local transport facilities in Connecticut, and this limited demand will continue in the future because Verizon only has one central office in Connecticut.

66. We also find that Verizon has a specific and concrete legal obligation to provide transport under its tariffs, interconnection agreements and SGAT in Connecticut. We find significant the Connecticut Department's finding that Verizon has satisfied the requirements of this checklist item. Moreover, as stated above, none of the commenting parties challenge Verizon's transport performance. Given the totality of the circumstances, therefore, we do not find the performance disparity in New York to be competitively significant in Connecticut, nor do we find it to be indicative of noncompliance when weighed against the other evidence.¹⁶⁰

4. Checklist Item 13 – Reciprocal Compensation

67. Section 271(c)(2)(B)(xiii) of the Act requires that a BOC enter into "[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2)."¹⁶¹ In turn, section 252(d)(2)(A) specifies when a state commission may consider the terms and conditions for reciprocal compensation to be just and reasonable.¹⁶² Based on the record, we conclude that Verizon demonstrates that it provides reciprocal compensation as required by checklist item 13. The Connecticut Department also concludes that Verizon complies with the requirements of checklist item 13.¹⁶³ With the exception of one very limited issue raised by Sprint concerning

¹⁵⁸ The carrier-to-carrier missed appointment rates for New York during the period from January through April 2001, appear to depict a significant difference in the provision of interoffice facilities for competitive LECs compared to the retail analogue that is indicative of Verizon's performance to itself. See PR 4-01 (Percent Missed Appointments Total IOF), Appendix B at B-14. Whether this performance raises enforcement issues in New York is a separate issue more appropriate for the Commission to resolve in an enforcement proceeding, and does not, in and of itself, warrant a finding of noncompliance in Connecticut for the reasons stated in this section.

¹⁵⁹ We emphasize that our analysis here is limited to the special circumstances of Verizon's operations in Connecticut, which render the performance in New York on transport of little relevance. We find the network size and configuration and consequent lack of demand for transport in Connecticut is distinguishable from situations in prior section 271 applications where states had very low volumes of orders under certain checklist items.

¹⁶⁰ In addition, we find further assurance in the fact that the performance in New York improved in May 2001. Compare PR 4-01 (Percent Missed Appointments) May 2001 with PR 4-01 with January – April 2001.

¹⁶¹ 47 U.S.C. § 271(c)(2)(B)(xiii).

¹⁶² 47 U.S.C. § 252(d)(2)(A). See Appendix D at D-35, para. 67.

¹⁶³ Connecticut Department Comments at 10-11.

reciprocal compensation, commenters do not question Verizon's compliance with this checklist item. Sprint, however, appears to be concerned with ensuring that Verizon has amended its Connecticut SGAT to include Internet traffic in its reciprocal compensation payments, as Verizon was ordered to do by the Connecticut Department.¹⁶⁴ While we note that both the Connecticut Department and Verizon state that the SGAT has been modified as ordered by the Department,¹⁶⁵ the Commission has found that ISP-bound traffic is not subject to the reciprocal compensation provisions of section 251(b)(5) and 252(d)(2); therefore, whether Verizon modified its SGAT to apply reciprocal compensation to Internet traffic is not relevant to compliance with checklist item 13.¹⁶⁶ Based on the record, we find Verizon to be in compliance with checklist item 13.

C. Remaining Checklist Items (3, 6-12)

68. In addition to showing that it is in compliance with the requirements discussed above, an applicant under section 271 must demonstrate that it complies with checklist item 3 (access to poles, ducts, and conduits),¹⁶⁷ item 6 (unbundled local switching),¹⁶⁸ item 7 (911/E911 access and directory assistance/operator services),¹⁶⁹ item 8 (white page directory listings),¹⁷⁰ item 9 (numbering administration),¹⁷¹ item 10 (databases and associated signaling),¹⁷² item 11 (number portability),¹⁷³ and item 12 (local dialing parity).¹⁷⁴ Based on the evidence in the record, we conclude that Verizon demonstrates that it is in compliance with these checklist items in Connecticut.¹⁷⁵ We also note that the Connecticut Department concludes that Verizon complies

¹⁶⁴ See Sprint Comments at 2, and Attach. at 3.

¹⁶⁵ See Connecticut Department Comments at 10-11; Verizon Lacouture/Rueterholz Decl. at para. 17.

¹⁶⁶ See *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic*, CC Docket Nos. 96-98 and 99-68, Order on Remand and Report and Order, FCC 01-131 (rel. April 27, 2001).

¹⁶⁷ 47 U.S.C. § 271(c)(2)(B)(iii).

¹⁶⁸ *Id.* § 271(c)(2)(B)(vi).

¹⁶⁹ *Id.* § 271(c)(2)(B)(vii).

¹⁷⁰ *Id.* § 271(c)(2)(B)(viii).

¹⁷¹ *Id.* § 271(c)(2)(B)(ix).

¹⁷² *Id.* § 271(c)(2)(B)(x).

¹⁷³ *Id.* § 271(c)(2)(B)(xi).

¹⁷⁴ *Id.* § 271(c)(2)(B)(xii).

¹⁷⁵ See Verizon Application at 47-48 (checklist item 3), 45-46 (checklist item 6), 48-51 (checklist item 7), 51 (checklist item 8), 51-52 (checklist item 9), 52-53 (checklist item 10), and 53 (checklist items 11 and 12); Lacouture/Rueterholz Decl. at paras. 288-292 (checklist item 3), 247-49 (checklist item 6), 305-330 (checklist item 7), 332-348 (checklist item 8), 349-352 (checklist item 9), 353-76 (checklist item 10), 379-382 (checklist item 11), (continued....)

with the requirements of each of these checklist items.¹⁷⁶ None of the commenting parties challenge Verizon's compliance with these checklist items.

IV. COMPLIANCE WITH SECTION 271(C)(1)(A)

69. In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or 271(c)(1)(B) (Track B).¹⁷⁷ To qualify for Track A, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service . . . to residential and business subscribers."¹⁷⁸

70. We conclude that Verizon demonstrates that it satisfies the requirements of Track A based on the interconnection agreements it has implemented with Network Plus and Lightpath in Connecticut.¹⁷⁹ Specifically, Verizon states that Network Plus provides telephone exchange service predominantly over its own facilities to residential and business subscribers. Verizon also states that Lightpath provides local exchange service to business subscribers exclusively over its own facilities . . . in the Verizon Connecticut service area.¹⁸⁰ The Connecticut Department "fully supports Verizon's application,"¹⁸¹ and none of the commenting parties directly challenge the statements by Verizon concerning compliance with Track A.

71. Based on the existing record, we conclude that a sufficient number of residential customers are being served by competing LECs through the use of their own facilities to demonstrate that there is an actual commercial alternative to Verizon in its very limited service area in Connecticut. Our comparison of the record in the Kansas/Oklahoma application and the record in this proceeding indicates that residential customers served by competitive LECs on a facilities basis represents a somewhat greater proportion of all Verizon access lines in Connecticut than was the case for Southwestern Bell in Kansas.

72. We do not accept Sprint's arguments questioning Verizon's compliance with Track A based solely on alleged shortcomings in the underlying proceedings conducted by the

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and 383-86 (checklist item 12); Verizon Lacouture/Ruesterholz Reply Decl. at paras. 96-97 (checklist item 6). See also Appendices B and C.

¹⁷⁶ See Connecticut Department Comments at 7 (checklist item 3), 8 (checklist items 6 and 7), 8-9 (checklist item 8), 9 (checklist items 9 and 10), and 10 (checklist items 11 and 12).

¹⁷⁷ 47 U.S.C. § 271(d)(3)(A).

¹⁷⁸ *Id.*

¹⁷⁹ Verizon Application at 4-5.

¹⁸⁰ *Id.*

¹⁸¹ Connecticut Department Comments at 3.

Connecticut Department.¹⁸² Although we consult with state commissions when conducting our section 271 proceedings, the statute directs this Commission to determine independently whether an applicant has complied with section 271.¹⁸³ As noted in the preceding paragraph, the record before this Commission demonstrates compliance. Accordingly, any shortcomings in the Connecticut Department's 271 proceedings would not be grounds for withholding section 271 approval when the record before this Commission demonstrates compliance.

V. SECTION 272 COMPLIANCE

73. Section 271(d)(3)(B) provides that the Commission shall not approve a BOC's application to provide interLATA services unless the BOC demonstrates that the "requested authorization will be carried out in accordance with the requirements of section 272."¹⁸⁴ Based on the record, we conclude that Verizon has demonstrated that it will comply with the requirements of section 272.¹⁸⁵ Significantly, Verizon provides evidence that it maintains the same structural separation and nondiscrimination safeguards in Connecticut as it does in New York and Massachusetts, states in which Verizon has already received section 271 authority.¹⁸⁶ No party challenges Verizon's section 272 showing.¹⁸⁷

¹⁸² Sprint argues that there was no evidence in the record before the Connecticut Department to demonstrate the existence of facilities-based competition at the time it certified that Verizon could proceed with its section 271 application under Track A. Sprint Comments, Attach. at 2-3.

¹⁸³ Section 271 requires that we consult with state commissions to verify BOC compliance with the requirements of subsection 271(c). 47 U.S.C. § 271(d)(2)(B). The Commission has previously stated that the purpose of consulting with the state commission regarding Track A is "to verify that the BOC has one or more state approved interconnection agreements with a facilities-based competitor," and that it is the Commission's "role to determine whether the factual record supports the conclusion that particular requirements of section 271 have been met." *Bell Atlantic New York Order*, 15 FCC Rcd at 3962, para. 20.

¹⁸⁴ 47 U.S.C. § 271(d)(3)(B). See Appendix D at D-37, paras. 69-70.

¹⁸⁵ See Verizon Application at 66-70; Verizon Application App. A, Vol. 3, Tab 5, Declaration of Susan C. Browning at para. 4 (Verizon Browning Decl.); Verizon Application App. A, Vol. 3, Tab 6, Declaration of Paul M. Fuglie (Verizon Fuglie Decl.).

¹⁸⁶ *Verizon Massachusetts Order*, 16 FCC Rcd at 9114-17, paras. 226-31; *Bell Atlantic New York Order*, 15 FCC Rcd at 4152-61, paras. 401-21; Verizon Application at 66-70; Verizon Browning Decl. at paras. 4-15; Verizon Fuglie Decl. at paras. 3-21.

¹⁸⁷ We recognize that the first independent audit of Verizon's section 272 compliance conducted pursuant to section 53.209 of the Commission's rules is now complete. See Letter from PriceWaterhouseCoopers LLP to Magalie Roman Salas, Secretary, Federal Communications Commission (June 11, 2001) (transmitting audit report). While the audit raises issues that may require further investigation, the audit results are not a legal determination of Verizon's section 272 compliance. Parties have yet to comment on the audit report and the Commission has not completed its own review of the audit results. See 47 C.F.R. § 53.213(d) (establishing 60-day comment period after audit report is made public). Based on the information we have to date, we are not persuaded that the issues raised in the audit warrant a finding that Verizon will not comply with the requirements of section 272.

VI. PUBLIC INTEREST ANALYSIS

74. In addition to determining whether a BOC satisfies the competitive checklist and will comply with section 272, Congress directed the Commission to assess whether the requested authorization would be consistent with the public interest, convenience, and necessity.¹⁸⁸ We conclude that approval of this application is consistent with the public interest.¹⁸⁹ In particular, we find that barriers to competitive entry in the local markets have been removed and that the local exchange markets in Connecticut are now open to competition.¹⁹⁰

75. We find that Verizon's Connecticut market is open to competition and that Verizon's entry into long distance in Connecticut will benefit customers. One commenter, Lightpath, argues that approval of this application is not in the public interest on the grounds that Verizon stalled interconnection agreement negotiations with Lightpath in Connecticut and forced Lightpath to arbitrate its interconnection agreement.¹⁹¹ Lightpath asks that we establish a presumption that prior interconnection agreements are reasonable and that it is unreasonable for Verizon to start with the prior agreement's terms.¹⁹² We find that Verizon adequately responds to Lightpath's allegations. Specifically, Verizon denies any unfair dealing or discrimination in its negotiations with Lightpath.¹⁹³ Verizon further states that, in any case, Lightpath's prior interconnection agreement stayed in effect until the new agreement took effect.¹⁹⁴ As the Commission has stated in prior orders, "we will not withhold section 271 authorization on the basis of isolated instances of allegedly unfair dealing or discrimination under the Act."¹⁹⁵ Nothing else in the record indicates a pattern of conduct that would undermine our confidence that the Connecticut market is open to competition.¹⁹⁶ Instead, the record confirms our view, expressed in prior section 271 orders, that BOC entry into the long distance market will benefit

¹⁸⁸ See 47 U.S.C. § 271(d)(3)(C). See Appendix D at D-38-39, paras. 71-73.

¹⁸⁹ See Verizon Application at 2-3, 71-82; Verizon Canny/Abesamis Decl.; Verizon Application App. A, Vol. 3, Tab 8, Declaration of William E. Taylor (Verizon Taylor Decl.); Verizon Reply at 20-25.

¹⁹⁰ See Verizon Application at paras. 72-75 (describing number of competitive LEC-controlled lines and modes of entry in Connecticut); Verizon Reply at 20-21.

¹⁹¹ Lightpath Comments at 2.

¹⁹² *Id.*

¹⁹³ Verizon Reply at 25.

¹⁹⁴ *Id.*

¹⁹⁵ *SWBT Texas Order*, 15 FCC Rcd at 18565, para. 431 (citing *Ameritech Michigan Order*, 12 FCC Rcd at 20749, para. 396); see also Verizon Reply at 23-25.

¹⁹⁶ See *id.* We emphasize that in granting this application, we do not reach any conclusion relating to the merits of Lightpath's allegations.

customers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist.¹⁹⁷

76. We find that Verizon's Performance Assurance Plan (or PAP) for Connecticut provides additional assurance that the local market will remain open after Verizon receives section 271 authorization.¹⁹⁸ Significantly, Verizon's Connecticut PAP is essentially the same as the New York PAP we reviewed as part of Verizon's New York section 271 application,¹⁹⁹ except for penalty caps, which have been reduced proportionately to reflect the much smaller number of lines served by Verizon in Connecticut.²⁰⁰ The Connecticut PAP will also be updated automatically whenever the New York PAP is modified.²⁰¹ We note that the approach taken by the Connecticut Department is one reasonable way to safeguard future compliance.

77. We cannot agree with Lightpath's contention that the caps on damages in the Connecticut PAP are too low and seriously undermine the PAP's effectiveness as an anti-backsliding tool. Lightpath contends that "CLEC-specific, incident-based remedies" should be added to the existing remedies to address "the direct consequences of poor service quality."²⁰² Specifically, Lightpath points to two other states' plans in which competitive LECs are compensated each time Verizon's performance in individual instances is below the performance standard.²⁰³ The Connecticut PAP, in contrast, generally obligates Verizon to pay remedies when its performance to competitive LECs in the aggregate is below the performance standard.²⁰⁴ As the Commission has recognized, individual state PAPs may vary, and our task is to determine

¹⁹⁷ See Verizon Application at 79-82; Verizon Reply at 21; *Verizon Massachusetts Order*, 16 FCC Rcd at 9118, para. 233.

¹⁹⁸ See, e.g., *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20806, paras. 363-64; see *Ameritech Michigan Order*, 12 FCC Rcd at 20747, para. 390.

¹⁹⁹ See Verizon Application at 75, 78; Verizon Canny/Abesamis Decl. at 52, para. 116; *Bell Atlantic New York Order*, 15 FCC Rcd at 4164-73, paras. 429-43; *Verizon Massachusetts Order*, 16 FCC Rcd at 9120, paras. 237-48.

²⁰⁰ See Verizon Application at 78; Verizon Canny/Abesamis Decl. at 52, para. 116.

²⁰¹ See Verizon Application at 77-78; Verizon Canny/Abesamis Decl. at 7, paras. 15, 51-52, 116.

²⁰² Lightpath Comments at 3-4; see also Letter from Cherie Kiser, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, Counsel for Lightpath, to Magalie Roman Salas, Secretary, Federal Communications Commission (July 3, 2001).

²⁰³ See, e.g., *id.* n.11 (citing *Establishment of a Collaborative Committee to Investigate Market Opening Measures*, Va. SCC Collaborative Committee Case No. PUC000026, Proposed Verizon Performance Plan for the State of Virginia, at 1 (filed Aug. 2, 2000)).

²⁰⁴ See Verizon Canny/Abesamis Decl. at 59-65, paras. 133-54; Letter from Sandra Thorn, Vice President and General Counsel, New York and Connecticut, Verizon New York Inc., to Louise Rickard, Acting Executive Secretary, Connecticut Department of Public Utility Control, at 7-15, Verizon Application at App. F, Vol. 1, Tab 3 (Apr. 20, 2001) (transmitting Verizon Connecticut PAP). For one component of the Connecticut PAP, i.e., Critical Measures, Verizon must pay if it fails to meet the performance standard in individual cases. This is called the "individual rule." See *id.* at 11.

whether the PAP at hand falls within a zone of reasonableness and is “likely to provide incentives that are sufficient to foster post-entry checklist compliance.”²⁰⁵ We find that the caps in the Connecticut plan are directly proportionate to those we approved in the New York plan and that the payment triggers, along with other procedural aspects, are the same.²⁰⁶ There is nothing in the record to indicate that higher penalty amounts or different payment triggers are necessary in Connecticut to create a proper incentive for post-entry compliance. We also agree with the Department of Justice’s conclusion that the way in which Verizon has extended the New York Change Control Assurance Plan (CCAP) to cover Connecticut is acceptable in the present circumstances.²⁰⁷ The CCAP requires Verizon to provide competitive LECs with bill credits “if Verizon does not provide satisfactory service pursuant to the standards established for measurements associated with the Change Management Process.”²⁰⁸

78. We recognize, as did the Department of Justice, that “it may be more difficult to make statistically significant determinations that Verizon’s performance in Connecticut is out of parity because of the small number of competitive LEC orders there.”²⁰⁹ The Department of Justice does not advocate changes to the Connecticut PAP in light of this, however. The low volumes of competitive LEC orders are not a factor within Verizon’s control and we do not believe that it is necessary to require changes to the Connecticut PAP in order to ensure adequate incentives for post-entry compliance. Further, based on the Connecticut Department’s comprehensive review, we are comfortable that the PAP is sufficient to deter backsliding given current volumes of commercial activity.²¹⁰

79. Finally, we are aware of the recent independent auditor’s report on Verizon’s compliance with the conditions of the Bell Atlantic/GTE merger regarding its Genuity spin-off, which were designed to ensure that the merger would not result in a violation of section 271.²¹¹

²⁰⁵ *Bell Atlantic New York Order*, 15 FCC Rcd at 4166, para. 433.

²⁰⁶ See Verizon Application at 78; Verizon Canny/Abesamis Decl. at 52, para. 116; Verizon Reply at 22-23; *Bell Atlantic New York Order*, 15 FCC Rcd at 4167-68, para. 435.

²⁰⁷ Department of Justice Evaluation at 5 n.18. Verizon Canny/Abesamis Decl. at 70, para. 162. The Department of Justice points out that competitive LECs operating in both New York and Verizon’s Connecticut service area will not be compensated for Verizon’s poor performance in Connecticut. As the Department of Justice notes, any competitive impact is *de minimis* in Connecticut, but might raise a larger concern in states with volumes greater than Connecticut. See Department of Justice Evaluation at 5 n.18.

²⁰⁸ Verizon Canny/Abesamis Decl. at 70, para. 162.

²⁰⁹ Department of Justice Evaluation at 5 n.18.

²¹⁰ See Connecticut DPUC, Docket No. 97-01-23, *Application of New York Telephone Company Pursuant to Section 271 of the Telecommunications Reform Act of 1996* (Apr. 11 2001), Verizon Application at App. B, Vol. 1, Tab 1, Sub-Tab G, 14-15.

²¹¹ See Letter from Susan Browning, Executive Director, Regulatory Compliance, Verizon, to Magalie Roman Salas, Secretary, Federal Communications Commission (June 1, 2001) (transmitting audit report).

Although we are concerned about the results of the Genuity audit, we believe that these issues will be appropriately addressed in the Commission's detailed review of the audit findings. Based on the information that we have to date, we are not persuaded that the audit findings warrant a conclusion of checklist non-compliance. Moreover, no commenter has raised Verizon's compliance with the Genuity conditions as an issue in this proceeding.

VII. SECTION 271(D)(6) ENFORCEMENT AUTHORITY

80. Section 271(d)(6) of the Act requires Verizon to continue to satisfy the "conditions required for . . . approval" of its section 271 application after the Commission approves its application.²¹² Thus, the Commission has a responsibility not only to ensure that Verizon is in compliance with section 271 today, but also that it remains in compliance in the future. As the Commission has already described the post-approval enforcement framework and its section 271(d)(6) enforcement powers in detail in prior orders, it is unnecessary to do so again here.²¹³

81. Working in concert with the Connecticut Department, we intend to closely monitor Verizon's post-approval compliance for Connecticut to ensure that Verizon does not "cease [] to meet any of the conditions required for [section 271] approval."²¹⁴ We stand ready to exercise our various statutory enforcement powers quickly and decisively in appropriate circumstances to ensure that the local market remains open in Connecticut. In this regard, the Commission will pay particular attention to Verizon's performance for loops and transport performance as well as section 272 compliance.

82. Consistent with prior section 271 orders, we require Verizon to report to the Commission all Connecticut carrier-to-carrier performance metrics results and Performance Assurance Plan monthly reports beginning with the first full month after the effective date of this Order, and for each month thereafter for one year unless extended by the Commission or Chief of the Enforcement Bureau. These results and reports will allow us to review, on an ongoing basis, Verizon's performance to ensure continued compliance with the statutory requirements. We are confident that cooperative state and federal oversight and enforcement can address any backsliding that may arise with respect to Verizon's entry into the Connecticut long distance market.²¹⁵

²¹² 47 U.S.C. § 271(d)(6).

²¹³ *Bell Atlantic New York Order*, 15 FCC Rcd at 4174, paras. 446-53; *SWBT Texas Order*, 15 FCC Rcd at 18567-68, paras. 434-36; *SWBT Kansas/Oklahoma* 16 FCC Rcd at 6382-84, paras. 283-85. See Appendix C.

²¹⁴ 47 U.S.C. § 271(d)(6)(A).

²¹⁵ See, e.g., *Bell Atlantic-New York, Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, File No. EB-00-IH-0085, Order, 15 FCC Rcd 5413 (2000) (adopting consent decree between the Commission and Bell Atlantic that included provisions for Bell Atlantic to make a voluntary payment of \$3,000,000 to the United States Treasury, with additional payments if Bell Atlantic (continued....))

VIII. CONCLUSION

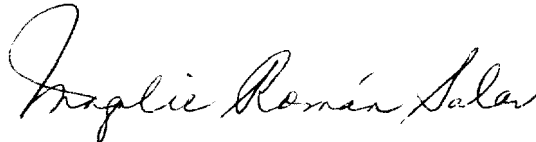
83. For the reasons discussed above, we grant Verizon's application for authorization under section 271 of the Act to provide in-region, interLATA services in the state of Connecticut.

IX. ORDERING CLAUSES

84. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 4(j), and 271 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j) and 271, Verizon's application to provide in-region, interLATA service in the state of Connecticut, filed on April 23, 2001, IS GRANTED.

85. IT IS FURTHER ORDERED that this Order SHALL BECOME EFFECTIVE July 30, 2001.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas
Secretary

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failed to meet specified performance standards and weekly reporting requirements to gauge Bell Atlantic's performance in correcting the problems associated with its electronic ordering systems).